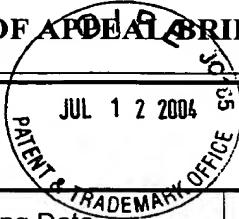


TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
200-0729

In Re Application Of: J. Melotik et al.

Serial No.
09/681,166Filing Date
February 7, 2001Examiner
H. GutmanGroup Art Unit
3612

Invention: INTEGRATED EXTENDABLE LOAD FLOOR ASSEMBLY FOR VEHICLES

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on May 7, 2004

The fee for filing this Appeal Brief is: \$330.00

A check in the amount of the fee is enclosed.

The Director has already been authorized to charge fees in this application to a Deposit Account.

The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 06-1510

Signature

Dated:

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CC:

I certify that this document and fee is being deposited on July 7, 2004 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature of Person Mailing Correspondence

Daniel H. Bliss

Typed or Printed Name of Person Mailing Correspondence



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3612)
Examiner: H. Gutman)
Applicant(s): J. Melotik et al.)
Serial No.: 09/681,166)
Filing Date: February 7, 2001)
For: INTEGRATED EXTENDABLE LOAD)
FLOOR ASSEMBLY FOR VEHICLES)

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

By Notice of Appeal filed May 7, 2004, Applicants have appealed the Final Rejection dated January 8, 2004 and submit this brief in support of that appeal.

REAL PARTY IN INTEREST

The real party in interest is the Assignee, Ford Global Technologies, Inc.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences regarding the present application.

STATUS OF CLAIMS

Claims 1 through 3 have been rejected.

Claim 4 has been canceled.

CERTIFICATE OF MAILING: (37 C.F.R. 1.8) I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service with sufficient postage as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on July 7, 2004,
by Daniel H. Bliss

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Claim 5 has been rejected.

Claim 6 has been canceled.

Claims 7 through 10 have been rejected.

Claim 11 has been canceled.

Claim 12 has been rejected.

Claim 13 has been canceled.

Claim 14 has been rejected.

Claim 15 has been canceled.

Claim 16 has been rejected.

Claim 17 has been canceled.

Claim 18 has been rejected.

Claim 19 has been canceled.

Claims 20 and 21 have been rejected.

Claims 1 through 3, 5, 7 through 10, 12, 14, 16, 18, 20, and 21 are being appealed.

STATUS OF AMENDMENTS

An Amendment Under 37 C.F.R. 1.116 was filed on March 8, 2004 in response to the Final Office Action dated January 8, 2004. An Advisory Action dated April 27, 2004 indicated that the Amendment under 37 C.F.R. 1.116 had been considered, but would not place the application in a condition for allowance. Upon the filing of an appeal, the Amendment under 37 C.F.R. 1.116 would not be entered. A Notice of Appeal and a Request for a One Month Extension of Time, along with the requisite fees, were filed on May 7, 2004. The Appeal Brief, along with the requisite fee, is submitted herewith.

SUMMARY OF THE INVENTION

The present invention is an integrated extendable load floor assembly 10 for a vehicle 12, such as a sedan type automotive vehicle 12. Such vehicles 12 typically include a body 14 having a rear end 16 forming a storage or cargo area 18. The rear end 16 includes a front 19, floor 20 (FIG. 5), two sides 22 and a rear decklid 24, which define the cargo area 18. The vehicle 12 also includes the integrated extendable load floor assembly 10 disposed in and closing a longitudinal end of the cargo area 18. (Page 4, line 23 through page 5, line 7).

The integrated extendable load floor assembly 10 includes a plurality of, preferably a pair of rails 26, spaced laterally and extending longitudinally between the sides 22 above the floor 20 of the rear end 16. Each of the rails 26 has a first rail member 28 extending longitudinally and at least one first bracket member 30 for attaching the first rail member 28 to the sides 22. Each of the rails 26 has a second rail member 32 slidably connected to the first rail member 28. The second rail member 32 cooperates with the first rail member 28 to allow at least a portion of the second rail member 32 to extend beyond the first rail member 28. (Page 5, line 12 through page 6, line 6).

The integrated extendable load floor assembly 10 also includes at least one drawer or load floor 34 for cooperating with the rails 26. The load floor 34 has a bottom 36 and opposed sides 38 extending generally perpendicular to the bottom 36 to form a cavity or chamber 40 therein with open longitudinal ends. The load floor 34 may include an inner panel 41 that is pivotally connected to a forward interior end thereof by suitable means such as a hinge and movable relative thereto to allow access to a spare tire to be stored within a recess of the floor 20 of the rear end 16. The inner panel 41 may include a latch mechanism on the inner panel 41 to releasably secure the inner panel 41 to the bottom 36 of the load floor 34. The load floor 34 also

includes a slide 42 disposed on and attached to the sides 38 thereof. The slides 42 extend longitudinally and cooperate with the second rail member 32 of the rails 26 for sliding therealong. (Page 6, line 13 through page 7, line 11).

The integrated extendable load floor assembly 10 also includes a rear panel or endgate 44 to close a rear longitudinal open end of the load floor 34. The endgate 44 is pivotally connected to the sides 38 of the load floor 34 by suitable means such as a pivot pin 46 at a lower end thereof. The integrated extendable load floor assembly 10 includes a latch mechanism 49 to latch the endgate 44 in a closed position relative to the load floor 34. The latch mechanism 49 has a striker 50 on each lateral side of the endgate 44 and a latch 52 on each lateral side 38 of the drawer 34 for engaging and disengaging the striker 50. The latch mechanism 49 also includes a movable handle 54 for actuating the latch 52 to release the striker 50 to move the endgate 44 from a closed and generally vertical position to an open and generally horizontal position. (Page 7, line 22 through page 8, line 4).

The integrated extendable load floor assembly 10 includes a latch mechanism 62 to latch the drawer 34 in a closed position relative to the rear end 16 of the vehicle 12. The latch mechanism 62 includes a striker 64 attached by suitable means such as a bracket 66 to a rear bumper 68 on adjacent the floor 20 of the rear end 16. The bracket 66 is attached to the rear bumper 68 by suitable means such as fasteners 67 or welding. The latch mechanism 62 also includes a latch 70 attached by suitable means such as fasteners to a forward longitudinal end 72 of the bottom 26 of the drawer 34 for engaging and disengaging the striker 64. The latch mechanism 62 includes a movable handle 74 for actuating the latch 70 to release the striker 64 to move the drawer 60 from a closed position adjacent to the rear end 16 of the vehicle 12 to an

open position spaced longitudinally away from the rear end 16 of the vehicle 12. (Page 4, line 23 through page 5, line 7).

In operation of the integrated extendable load floor assembly 10, during normal operating conditions, the load floor 34 is in a closed position with the rear end 16 to close the longitudinal end of the cargo area 18 of the rear end 16. The load floor 34 is used to hold objects in the cargo area 18 of the rear end 16. In addition, the decklid 24 is in a closed position with the rear end 16 to close an upper portion of the cargo area 18. If desirable, the upper latch mechanism may be actuated via a handle to allow the decklid 24 to move from a closed position with the rear end 16 to an open position with the rear end 16. At this point, cargo may be unloaded from the load floor 34 by an operator in a conventional manner. If desired, the operator via the handle 74 may actuate the latch mechanism 62, and the load floor 34 may be slid rearward an open position with the rear end 16 to allow the operator to unload the cargo from the load floor 34. If desirable, the latch mechanism 49 may be actuated via the handle 54 to allow the endgate 44 to move from a closed position with the drawer 34 to an open position with the drawer 34. At this point, cargo may be unloaded from the load floor 34. If desired, the latch mechanism 60 may be actuated by the operator and the inner panel 56 of the endgate 44 moved upward to an open position with the endgate 44 to allow the operator to unload the cargo from the cavity 58 of the endgate 44. If desired, the latch mechanism may be actuated by the operator and the inner panel 41 of the load floor 34 moved upward to an open position with the bottom 36 of the load floor 34 to allow the operator access to the spare tire in the recess of the floor 20 of the rear end 16. (Page 10, line 25 through page 12, line 10).

ISSUES

The issues in this Appeal are statutorily formulated in 35 U.S.C. § 102(b) and § 103. Specifically, one issue is whether the claimed invention of claims 8 through 10, 12, and 21 are disclosed and anticipated under 35 U.S.C. § 102(b) by Greig (U.S. Patent No. 2,284,419). Another issue is whether the claimed invention of claims 1 through 3, 5, and 20 are obvious and unpatentable under 35 U.S.C. § 103 over Mayer (U.S. Patent No. 3,004,790) in view of Greig '419 and Klar (U.S. Patent No. 5,692,792). Yet another issue is whether the claimed invention of claims 14, 16, and 18 are obvious and unpatentable under 35 U.S.C. § 103 over Mayer '790 in view of Greig '419, allegedly well known prior art, and Klar '792. Still another issue is whether the claimed invention of claim 7 is obvious and unpatentable under 35 U.S.C. § 103 over Mayer '790 and further in view of allegedly well known prior art.

GROUPINGS OF CLAIMS

Claims 8 through 10 and 12 stand or fall together in regard to the rejection under 35 U.S.C. § 102(b).

Claim 21 stands or falls together in regard to the rejection under 35 U.S.C. § 102(b).

Claims 1 through 3 and 5 stand or fall together in regard to the rejection under 35 U.S.C. § 103.

Claim 7 stands or falls together in regard to the rejection under 35 U.S.C. § 103.

Claims 14, 16, and 18 stand or fall together in regard to the rejection under 35 U.S.C. § 103.

Claim 20 stands or falls together in regard to the rejection under 35 U.S.C. § 103.

ARGUMENT

35 U.S.C. § 102

As to patentability, 35 U.S.C. § 102(b) provides that a person shall be entitled to a patent unless:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

A rejection grounded on anticipation under 35 U.S.C. § 102 is proper only where the subject matter claimed is identically disclosed or described in a reference. In other words, anticipation requires the presence of a single prior art reference which discloses each and every element of the claimed invention arranged as in the claim. In re Arkley, 455 F.2d 586, 172 U.S.P.Q. 524 (CCPA 1972); Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983); Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481 (Fed. Cir. 1984).

As to the reference applied by the Examiner, U.S. Patent No. 2,284,419 to Greig discloses a vehicle body. A vehicle body includes a rear panel 10 within which is located a rear deck space or compartment 11. The panel 10 is provided with an opening 12 to permit access to the rear deck space 11, and with a hinged closure or decklid 13 which is adapted to close the opening 12. A moveable or adjustable, and removable unit includes a pair of longitudinally extending transversely spaced channels or members 20 which are mounted on edge upon a transversely extending channel or frame member 21. A box or storage portion 23 of the unit is formed of pressed metal and comprises a floor 24, side walls 25, and a hinged tail gate or closure plate 26. The tail gate 26 is adapted to be held in closed position by means of releasable spring

controlled latches 28 which are carried by the side walls 25 and which engage keeper plates 29 carried by the tail gate 26. A releasable latch means or locking devices are provided for maintaining the box in various longitudinally adjusted positions, together with operating or control means for releasing these latches or locking devices. Each of the side walls 25 of the box-like member 23 is provided with spaced brackets 41 and 42 for supporting in substantially horizontal position, a rod 43. The outer end of the rod 43 extends through a longitudinal hole or opening formed in the rear end of the wall 25 and is bent upwardly at 44 to provide a handle portion for the rod 43. The inner end of the rod 43 has an offset end 45 which engages in the looped upper end 47 of a spring pressed locking pin 46.

Claims 8, 10, and 12

Claim 8 claims the present invention claimed as an integrated extendable load floor assembly (10) for a vehicle (12) having a rear storage area (18) with an open end. The integrated extendable load floor assembly (10) includes a decklid (24) adapted to be pivotally secured to the vehicle (12) for pivotal longitudinal movement rearward to close an upper portion of the open end of the rear storage area (18) in a closed position and for pivotal longitudinal movement forward to open the upper portion of the open end of the rear storage area (18) in an open position. The integrated extendable load floor assembly (10) also includes at least one rail (26) adapted to be disposed upon a side (22) of the rear storage area (18). The integrated extendable load floor assembly (10) includes a load floor (34) cooperating with the at least one rail (26) allowing for a selective sliding movement in and out of the rear storage area (18) of the vehicle (12). The integrated extendable load floor assembly (10) includes a rear panel (44) that is cooperatively attached to a bottom of a rear edge of the load floor (34) allowing selective

positioning of the rear panel (44) in an upright closed position and a lower horizontal open position. The rear panel (44) closes a lower portion of the rear storage area (18) when in the upright closed position adjacent a rear of the vehicle (12), wherein the decklid (24) and the rear panel (44) cooperate together to close the open end of the rear storage area (18). The integrated extendable load floor assembly (10) further includes a load floor latching mechanism (62) comprising a striker (64) and a latch (70). One of the striker (64) and the latch (70) is connected to a rearward longitudinal end of the load floor (34) and the other one of the striker (64) and the latch (70) is connected to vehicle structure to latch the load floor (34) in a closed position. The load floor latching mechanism (62) includes a movable handle (74) disposed on the load floor (34).

Greig '419 does not disclose or anticipate the claimed invention of claim 8. Specifically, Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks a decklid to close an upper portion of the open end of the rear storage area in a closed position and a load floor including a rear panel that closes a lower portion of the rear storage area when in the upright closed position, wherein the decklid and the rear panel cooperate together to close the open end of the rear storage area.

In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12. The word "cooperate" is defined in the Webster's New Collegiate

Dictionary on page 247 (copy attached to previous Amendment) as “to act together”. As admitted by the Examiner on page 3 of the Final Office Action, the decklid 13 closes the opening of Greig ‘419. The decklid 13 of Greig ‘419 cannot act together (“cooperate”) with the tail gate 26 to close the opening of the rear deck space 11. Contrary to the Examiner’s interpretation, Figure 2 of Greig ‘419 clearly shows that the decklid 13 fully closes the opening 12 and no part of the movable unit 23 closes the opening 12.

Greig ‘419 fails to disclose the combination of an integrated extendable load floor assembly for a vehicle including a decklid adapted to be pivotally secured to the vehicle for pivotal longitudinal movement rearward to close an upper portion of the open end of the rear storage area in a closed position, a load floor cooperating with the at least one rail allowing for a selective sliding movement in and out of the rear storage area of the vehicle including a rear panel that closes a lower portion of the rear storage area when in the upright closed position adjacent a rear of the vehicle, wherein the decklid and the rear panel cooperate together to close the open end of the rear storage area, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position and including a movable handle disposed on the load floor as claimed by Applicants.

Against this background, it is submitted that the present invention is not anticipated in view of the disclosure of Greig ‘419. The reference fails to disclose each and every element of the claimed combination of an integrated extendable load floor assembly for a vehicle as arranged in the claims and claimed by Applicants. Therefore, it is respectfully submitted that claims 8 through 10 and 12 are not anticipated and are allowable over the rejection under 35 U.S.C. § 102(b).

Claim 21

Claim 21 claims the present invention as a sedan type automotive vehicle including a body including a rear end having a floor and sides extending upwardly and along the floor to form a cargo area with an opening. The sedan type automotive vehicle also includes a load floor for sliding movement in and out of the cargo area and an endgate pivotally connected to the load floor and having a closed upright position and an open horizontal position. The endgate closes a lower portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle. The sedan type automotive vehicle includes a decklid pivotally secured to the sides and cooperating with the endgate for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to allow access to the cargo area in an open position and to allow objects to be removed from the cargo area when the decklid is in the open position. The decklid and the endgate cooperate together to close the opening of the cargo area. The sedan type automotive vehicle further includes a load floor latching mechanism comprising a striker and a latch. One of the striker and the latch is connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch is connected to vehicle structure to latch the load floor in a closed position.

Greig '419 does not disclose or anticipate the claimed invention of claim 21. Specifically, Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks an endgate closing a lower portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle and a decklid cooperating with the endgate to close an upper portion of the opening of the cargo area in a

closed position, wherein the decklid and the endgate cooperate together to close the opening of the cargo area.

In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12. The word "cooperate" is defined in the Webster's New Collegiate Dictionary as "to act together". As admitted by the Examiner on page 3 of the Final Office Action, the decklid 13 closes the opening of Greig '419. The decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space 11. Contrary to the Examiner's interpretation, Figure 2 of Greig '419 clearly shows that the decklid 13 fully closes the opening 12 and no part of the movable unit 23 closes the opening 12.

Greig '419 fails to disclose the combination of a sedan type automotive vehicle including an endgate pivotally connected to a load floor with the endgate closing a lower portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, a decklid pivotally secured to the vehicle and cooperating with the endgate to close an upper portion of the opening of the cargo area in a closed position, wherein the decklid and the endgate cooperate together to close the opening of the cargo area, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position within the cargo area as claimed by Applicants.

Against this background, it is submitted that the present invention is not anticipated in view of the disclosure of Greig '419. The reference fails to disclose each and every

element of the claimed combination of a sedan type automotive vehicle as arranged in the claims and claimed by Applicants. Therefore, it is respectfully submitted that claim 21 is not anticipated and is allowable over the rejection under 35 U.S.C. § 102(b).

35 U.S.C. § 103

As to patentability, 35 U.S.C. § 103 provides that a patent may not be obtained:

If the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Id.

The United States Supreme Court interpreted the standard for 35 U.S.C. § 103 in Graham v. John Deere, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). In Graham, the Court stated that under 35 U.S.C. § 103:

The scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or non-obviousness of the subject matter is determined. 148 U.S.P.Q. at 467.

Using the standard set forth in Graham, the scope and content of the prior art relied upon by the Examiner will be determined.

As to the primary reference applied by the Examiner, U.S. Patent No. 3,004,790 to Mayer discloses an article carrier for an automobile trunk compartment. An article carrier 20 is normally nested within a compartment 12 of an automobile body rear portion 10 and is shiftable along a floor 14 in the nested position out of the open end of the compartment 12 to an extended position. A pair of doors 32 and 34 are arranged in edge-to-edge relation and normally extend

over and close the open top of the compartment 12 and are connected by hinge members 36 to the compartment side walls 16 and 18 for swinging movement. The article carrier 20 includes a front panel 22, which closes the open end of the compartment 12 when the carrier 20 is in the nested position. The front panel 22 is connected along its lower end by a hinge 24 to the rearward end of a floor panel 26 for movement from the upstanding position to the lay-down horizontal position. Means is provided connecting the floor panel 26 to the floor 14 for shifting movement thereover. The means consist in supporting rollers 38 carried in brackets 40 which depend from the under face of the floor panel 26 and guide rollers 42 which roll in a channel shaped track ways 44 provided on the under face of the floor panel 26, the guide rollers 42 being supported on the brackets 46 which are carried on the upper face of the floor 14. A latch means is provided on the carrier panel 22 for securing the carrier 20 in the nested position. The latch means includes a handle 60 exteriorly of the panel 22 operatively connected to a hook 62 on the internal wall of the panel 22, the hook 62 engaging a keeper 64 provided in a rearward edge portion of the door 32.

As to the secondary reference applied by the Examiner, U.S. Patent No. 2,284,419 to Greig discloses a vehicle body. A vehicle body includes a rear panel 10 within which is located a rear deck space or compartment 11. The panel 10 is provided with an opening 12 to permit access to the rear deck space 11, and with a hinged closure or decklid 13 which is adapted to close the opening 12. A moveable or adjustable, and removable unit includes a pair of longitudinally extending transversely spaced channels or members 20 which are mounted on edge upon a transversely extending channel or frame member 21. A box or storage portion 23 of the unit is formed of pressed metal and comprises a floor 24, side walls 25, and a hinged tail gate or closure plate 26. The tail gate 26 is adapted to be held in closed position by means of releasable spring controlled latches 28 which are carried by the side walls 25 and which engage keeper

plates 29 carried by the tail gate 26. A releasable latch means or locking devices are provided for maintaining the box in various longitudinally adjusted positions, together with operating or control means for releasing these latches or locking devices. Each of the side walls 25 of the box-like member 23 is provided with spaced brackets 41 and 42 for supporting in substantially horizontal position, a rod 43. The outer end of the rod 43 extends through a longitudinal hole or opening formed in the rear end of the wall 25 and is bent upwardly at 44 to provide a handle portion for the rod 43. The inner end of the rod 43 has an offset end 45 which engages in the looped upper end 47 of a spring pressed locking pin 46.

As to the tertiary reference applied by the Examiner, U.S. Patent No. 5,692,792 to Klar discloses an expandable storage system for a vehicle. A vehicle 10 has a rear storage compartment 12, which has side walls 14 and a floor 16. Access to the storage compartment 12 is gained via a rear opening across which is mounted a tailgate 20 for selectable closing and opening thereof. An expandable storage system 22 includes an extendible storage member 24 which has a floor portion 26 defining front and rear edges 28 and 30 and side edges 32, and a pair of parallel side walls 34 connected to the side edges 32 of floor portion 26 so as to extend transversely upward therefrom, thereby to prevent undesired lateral movement of luggage supported thereon. As seen, the storage member 24 is mounted within the storage compartment 12 such that its side walls 34 are generally parallel to the storage compartment side walls 14, and so as to be selectively movable relative to the storage compartment along an axis 36, between retracted and extended positions.

Claims 1 through 3 and 5

Claim 1 claims the invention as an integrated extendable load floor assembly (10) for a vehicle (12) having a rear end (16) with a floor (20) and sides (22) extending upwardly and along the floor (20) to form a cargo area (18) with an opening. The integrated extendable load floor assembly (10) includes a decklid (24) adapted to be pivotally secured to the rear end (16) for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area (18) in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area (18) in an open position. The integrated extendable load floor assembly (10) also includes a plurality of rails (26) adapted to be disposed upon the sides (22) above the floor (20) of the rear end (16). The integrated extendable load floor assembly (10) includes a load floor (34) operatively cooperating with the rails (26) for sliding movement therealong. The load floor (34) includes an endgate (44) pivotally attached to a rear longitudinal end thereof having an upright closed position and a horizontal open position. The endgate (44) closes a lower portion of the opening of the cargo area (18) when in the upright closed position adjacent a rear of the vehicle (12), whereby the decklid (24) and the endgate (44) cooperate together to close the opening of the cargo area (18). The integrated extendable load floor assembly (10) further includes a load floor latching mechanism (62) comprising a striker (64) and a latch (70). One of the striker (64) and the latch (70) is connected to a rearward longitudinal end of the load floor (34) and the other one of the striker (64) and the latch (70) is connected to vehicle structure to latch the load floor (34) in a closed position.

The United States Court of Appeals for the Federal Circuit (CAFC) has stated in determining the propriety of a rejection under 35 U.S.C. § 103(a), it is well settled that the obviousness of an invention cannot be established by combining the teachings of the prior art

absent some teaching, suggestion or incentive supporting the combination. See In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 U.S.P.Q. 929 (Fed. Cir. 1984). The law followed by our court of review and the Board of Patent Appeals and Interferences is that “ [a] prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.” In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (C.C.P.A. 1976). See also In re Lalu, 747 F.2d 703, 705, 223 U.S.P.Q. 1257, 1258 (Fed. Cir. 1984) (“In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification.”)

As to the differences between the prior art and the claims at issue, the primary reference to Mayer ‘790 merely discloses an article carrier for an automobile trunk compartment that is normally nested within a compartment of an automobile body rear portion and is shiftable along a floor in the nested position out of the open end of the compartment to an extended position. Mayer ‘790 lacks a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position. In Mayer ‘790, a pair of doors 32 and 34 are arranged in edge-to-edge relation and normally extend over and close the open top of the compartment 12 and are connected by hinge members 36 to the compartment side walls 16 and 18 for swinging movement. Mayer ‘790 also lacks a plurality of rails adapted to be disposed

upon the sides above the floor of the cargo area. In Mayer '790, means is provided connecting the floor panel 26 to the floor 14 for shifting movement thereover consisting in guide rollers 42 that are supported on brackets 46 which are carried on the upper surface of the floor 14. Mayer '790 further lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. In Mayer '790, the latch means includes a handle 60 operatively connected to a hook 62 on the internal wall of the panel 22 and engaging a keeper 64 provided in a rearward edge portion of the door 32.

The secondary reference to Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position. Greig '419 also lacks a load floor operatively cooperating with rails for sliding movement therealong and including an endgate pivotally attached to a rear longitudinal end thereof having an upright closed position and a horizontal open position, the endgate closing a lower portion of the opening of the cargo area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area. In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed

position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12. Therefore, the decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space 11.

The tertiary reference to Klar '792 merely discloses an expandable storage system for a vehicle having a rear storage compartment in which access is gained via a rear opening across which is mounted a tailgate for selectable closing and opening thereof and an expandable storage system including an extendible storage member mounted within the storage compartment such that its side walls are generally parallel to the storage compartment side walls, and so as to be selectively movable relative to the storage compartment along an axis, between retracted and extended positions. Klar '792 lacks a plurality of rails adapted to be disposed upon the sides above the floor of the cargo area. In Klar '792, the first track members 58 are attached to the vehicle storage compartment floor 16. Klar '792 also lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. In Klar '792, an apparatus 70 includes a spring-biased catch member which is affixed to the interior surface of the rear wall of the storage member 24 and a tongue element of the catch member 70 extends through an opening 74 formed in the floor portion 26 of the storage member 24, so as to be engageable with an annular recess 76 formed in the floor portion 16 of the vehicle storage compartment.

As to the level of ordinary skill in the pertinent art, Mayer '790 merely discloses an article carrier for an automobile trunk compartment that is normally nested within a compartment of an automobile body rear portion and is shiftable along a floor in the nested

position out of the open end of the compartment to an extended position. Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Klar '792 merely discloses an expandable storage system for a vehicle having a rear storage compartment in which access is gained via a rear opening across which is mounted a tailgate for selectable closing and opening thereof and an expandable storage system to be selectively movable relative to the storage compartment between retracted and extended positions. However, there is absolutely no teaching of a level of skill in the vehicle art to include a decklid for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position, a plurality of rails disposed upon the sides above the floor, a load floor operatively cooperating with the rails for sliding movement therealong, an endgate pivotally closing a lower portion of the opening of the cargo area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, and a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. The Examiner may not, because she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (CCPA 1967). In fact, Mayer '790 lacks a decklid pivotally secured to the rear end for pivotal longitudinal movement rearward, a plurality of rails disposed upon the sides above the floor of the cargo area, and a load floor latching mechanism comprising a striker and a latch with one of

the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. Greig '419 lacks a decklid pivotally secured to the rear end for pivotal longitudinal movement rearward and a load floor including an endgate pivotally attached to a rear longitudinal end thereof closing a lower portion of the opening of the cargo area, whereby the decklid and the endgate cooperate together to close the opening of the cargo area. Klar '792 lacks a plurality of rails disposed upon the sides above the floor of the cargo area and a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. Further, there is no suggestion or motivation in the art to substitute the decklid, endgate, and latching mechanisms of Greig '419 or Klar '792 for the decklid, endgate, and latching mechanism of Mayer '790 because Greig '419 and Klar '792 operate in an entirely different manner. The Examiner has adduced no factual basis to support her position that it would have been desirable to combine Mayer '790 and Greig '419 to better secure the load floor to the vehicle or to combine Mayer '790 and Klar '792 in order to quickly and more easily open and close one single decklid.

The references, if combinable, fail to teach or suggest the combination of an integrated extendable load floor assembly for a vehicle including a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position, a plurality of rails adapted to be disposed upon the sides above the floor of the rear end, a load floor operatively cooperating with the rails for sliding movement therealong, an endgate pivotally

closing a lower portion of the opening of the cargo area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, and a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position as claimed by Applicants. Thus, the Examiner has failed to establish a case of prima facie obviousness.

The present invention sets forth a unique and non-obvious combination of an integrated extendable load floor assembly for a vehicle including a decklid to close an upper portion of the opening of the cargo area in a closed position, a load floor operatively cooperating with rails for sliding movement, an endgate pivotally closing a lower portion of the opening of the cargo area, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, and a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. Advantageously, the integrated extendable load floor assembly provides expanded carrying capability of the cargo area in a conventional sedan type automotive vehicle without compromising the exterior appearance of the vehicle and integrated with the rear end of the vehicle.

Obviousness under § 103(a) is a legal conclusion based on factual evidence (In re Fine, 837 F.2d 1071, 1073, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988)), and the subjective opinion of the Examiner as to what is or is not obvious, without evidence in support thereof, does not suffice. The Examiner may not, because she doubts that the invention is patentable, resort to

speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (C.C.P.A. 1967). Because the Examiner has not provided a sufficient factual basis that is supportive of her position (see In re Warner, 379 F.2d 1011, 1017, 154 U.S.P.Q. 173, 178 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968)), the rejection of claim 1 is improper.

Against this background, it is submitted that the present invention of claim 1 is not obvious in view of Mayer '790, Greig '419, and Klar '792. The references fail to teach or suggest the combination of an integrated extendable load floor assembly for a vehicle of claim 1. Therefore, it is respectfully submitted that claim 1 is not obvious and is allowable over the rejection under 35 U.S.C. § 103.

The law is clear that a claim in dependent form shall be construed to incorporate by reference all of the limitations of the claim to which it refers. 35 U.S.C. § 112, ¶ 4. Dependent claims 2, 3, and 5 perfect and further limit independent claim 1. Claim 2 defines that the integrated extendable load floor assembly includes a pair of slides disposed on opposed sides of the load floor and cooperating with the rails. Claim 3 defines that the load floor comprises a bottom and sides extending generally perpendicular to the bottom to form a compartment for holding objects. Claim 5 defines that the integrated extendable load floor assembly includes a latching mechanism to latch the endgate to the load floor in the upright closed position. Based on the above, it is respectfully submitted that claims 2, 3, and 5 are not obvious and are allowable over the rejection under 35 U.S.C. § 103.

Claim 20

As to independent claim 20, claim 20 claims the present invention as an automotive vehicle (12) including a body (14) including a rear end (16) having a floor (20) and sides (22) extending upwardly and along the floor (20) to form a cargo area (18) with an opening. The automotive vehicle (12) also includes a plurality of rails (26) spaced laterally and extending longitudinally between the sides (22) above the floor (20). The automotive vehicle (12) includes a load floor (34) operatively cooperating with the rails (26) for sliding movement therealong. The automotive vehicle (12) further includes a decklid (24) pivotally secured to the sides (22) for pivotal longitudinal movement rearward to close a first portion of the opening of the cargo area (18) in a closed position and for pivotal longitudinal movement forward to allow the load floor (34) to be extended when the decklid (24) is in the open position. The automotive vehicle (12) includes an endgate (44) pivotally connected to the load floor (34) and having a closed upright position and an open horizontal position. The endgate (44) closes a second portion of the opening of the cargo area (18) when in the closed upright position adjacent a rear of the vehicle (12), whereby the decklid (24) and the endgate (44) cooperate together to close the opening of the cargo area (18). The automotive vehicle (12) also includes an endgate latching mechanism (60) that latches the endgate (44) in the upright closed position. The automotive vehicle (12) further includes a load floor latching mechanism (62) comprising a striker (64) and a latch (70). One of the striker (64) and the latch (70) is connected to a rearward longitudinal end of the load floor (34) and the other one of the striker (64) and the latch (70) is connected to vehicle structure to latch the load floor (34) in a closed position.

None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claim 20. Specifically, Mayer '790 lacks a decklid pivotally

secured to the sides for pivotal longitudinal movement rearward to close a first portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to allow the load floor to be extended when the decklid is in the open position. In Mayer '790, a pair of doors 32 and 34 are arranged in edge-to-edge relation and normally extend over and close the open top of the compartment 12 and are connected by hinge members 36 to the compartment side walls 16 and 18 for swinging movement. Mayer '790 also lacks a plurality of rails spaced laterally and extending longitudinally between the sides above the floor. In Mayer '790, means is provided connecting the floor panel 26 to the floor 14 for shifting movement thereover consisting in guide rollers 42 that are supported on brackets 46 which are carried on the upper surface of the floor 14. Mayer '790 further lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. In Mayer '790, the latch means includes a handle 60 operatively connected to a hook 62 on the internal wall of the panel 22 and engaging a keeper 64 provided in a rearward edge portion of the door 32.

Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks an endgate pivotally connected to a load floor and having a closed upright position and an open horizontal position with the endgate closing a second portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area. In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail

gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12. Therefore, the decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space 11.

Klar '792 merely discloses an expandable storage system for a vehicle having a rear storage compartment in which access is gained via a rear opening across which is mounted a tailgate for selectable closing and opening thereof and an expandable storage system including an extendible storage member mounted within the storage compartment such that its side walls are generally parallel to the storage compartment side walls, and so as to be selectively movable relative to the storage compartment along an axis, between retracted and extended positions. Klar '792 lacks a plurality of rails spaced laterally and extending longitudinally between the sides above the floor. In Klar '792, the first track members 58 are attached to the vehicle storage compartment floor 16. Klar '792 also lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. In Klar '792, an apparatus 70 includes a spring-biased catch member which is affixed to the interior surface of the rear wall of the storage member 24 and a tongue element of the catch member 70 extends through an opening 74 formed in the floor portion 26 of the storage member 24, so as to be engageable with an annular recess 76 formed in the floor portion 16 of the vehicle storage compartment. There is no suggestion or motivation in the art to combine Mayer '790, Greig '419, and Klar '792 together.

There is absolutely no teaching of a level of skill in the vehicle art to include a plurality of rails extending longitudinally between sides above a floor, a load floor operatively cooperating with the rails for sliding movement therealong, a decklid pivotally secured to the sides for pivotal longitudinal movement, an endgate pivotally connected to the load floor closing a second portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, an endgate latching mechanism that latches the endgate in the upright closed position, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position. The Examiner may not, because she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (CCPA 1967). There is no motivation in the art to substitute the decklid, endgate, and latching mechanisms of Greig '419 or Klar '792 for the decklid, endgate, and latching mechanism of Mayer '790 because Greig '419 and Klar '792 operate in an entirely different manner. The Examiner has adduced no factual basis to support her position that it would have been desirable to combine Mayer '790 and Greig '419 to better secure the load floor to the vehicle or to combine Mayer '790 and Klar '792 in order to quickly and more easily open and close one single decklid.

The references, if combinable, fail to teach or suggest the combination of an automotive vehicle including a plurality of rails spaced laterally and extending longitudinally between sides above a floor, a load floor operatively cooperating with the rails for sliding movement therealong, a decklid pivotally secured to the sides for pivotal longitudinal movement rearward to close a first portion of an opening of a cargo area in a closed position and for pivotal longitudinal movement forward to allow the load floor to be extended when the decklid is in the

open position, an endgate pivotally connected to the load floor and having a closed upright position and an open horizontal position with the endgate closing a second portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, an endgate latching mechanism that latches the endgate in the upright closed position, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position as claimed by Applicants.

Applicants are not attacking the references individually, but are clearly pointing out that each reference is deficient and, if combined (although Applicants maintain that they are not combinable), the combination is deficient. The present invention sets forth a unique and non-obvious combination of an automotive vehicle including a plurality of rails, a load floor operatively cooperating with the rails, a decklid to close a first portion of an opening of a cargo area in a closed position, an endgate closing a second portion of the opening of the cargo area, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, an endgate latching mechanism that latches the endgate in the upright closed position, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position. Advantageously, the automotive vehicle has expanded carrying capability of the cargo area without compromising the exterior appearance of the vehicle and integrated with the rear end of the vehicle.

Further, the CAFC has held that “[t]he mere fact that prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification”. In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). The Examiner has failed to show how the prior art suggested the desirability of

modification to achieve Applicants' invention. Thus, the Examiner has failed to establish a case of prima facie obviousness.

Against this background, it is submitted that the present invention of claim 20 is not obvious in view of Mayer '790, Greig '419, and Klar '792. The references fail to teach or suggest the combination of an automotive vehicle of claim 20. Therefore, it is respectfully submitted that claim 20 is not obvious and is allowable over the rejection under 35 U.S.C. § 103.

Claims 14, 16, and 18

As to independent claim 14, claim 14 claims the present invention as a vehicle (12) including a body (14) including a rear end (16) having a floor (20) and sides (22) extending upwardly and along the floor (20) to form a rear storage area (18) having an opening. The vehicle (12) also includes a decklid (24) pivotally secured to the rear end (16) for pivotal longitudinal movement rearward to close a first portion of the opening of the rear storage area (18) in a closed position and for pivotal longitudinal movement forward to allow access to the rear storage area (18) in an open position. The vehicle (12) further includes an integrated extendable load floor assembly (10) cooperating with the rear storage area (18). The integrated extendable load floor assembly (10) includes at least one rail (26) disposed upon each of the sides (22) of the rear storage area (18) and a load floor (34) cooperating with the at least one rail (26). The load floor (34) has selective sliding movement in and out of the rear storage area (18) of the vehicle (12). The integrated extendable load floor assembly (10) also includes a rear panel (44) that is cooperatively attached to a bottom of a rear edge of the load floor (34) allowing selective positioning of the rear panel (44) in an upright closed position and a horizontal open position. The rear panel (44) closes a second portion of the opening of the rear storage area (18) when in

the upright closed position adjacent a rear of the vehicle (12), whereby the decklid (24) and the rear panel (44) cooperate together to close the opening of the rear storage area (18). The integrated extendable load floor assembly (10) further includes a load floor latching mechanism (62) comprising a striker (64) and a latch (70). One of the striker (64) and the latch (70) is connected to a rearward longitudinal end of the load floor (34) and the other one of the striker (64) and the latch (70) is connected to the body (14) of the vehicle (12) to latch the load floor (34) in a closed position.

None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claim 14. Specifically, Mayer '790 lacks a decklid pivotally secured to the rear end for pivotal longitudinal movement rearward to close a first portion of the opening of the rear storage area in a closed position and for pivotal longitudinal movement forward to allow access to the rear storage area in an open position. In Mayer '790, a pair of doors 32 and 34 are arranged in edge-to-edge relation and normally extend over and close the open top of the compartment 12 and are connected by hinge members 36 to the compartment side walls 16 and 18 for swinging movement. Mayer '790 also lacks at least one rail disposed upon each of the sides of the rear storage area and a load floor cooperating with the at least one rail. In Mayer '790, means is provided connecting the floor panel 26 to the floor 14 for shifting movement thereover consisting in guide rollers 42 that are supported on brackets 46 which are carried on the upper surface of the floor 14. Mayer '790 further lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to the body of the vehicle to latch the load floor in a closed position. In Mayer '790,

the latch means includes a handle 60 operatively connected to a hook 62 on the internal wall of the panel 22 and engaging a keeper 64 provided in a rearward edge portion of the door 32.

Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks a load floor cooperating with at least one rail for selective sliding movement in and out of a rear storage area of a vehicle and including a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a horizontal open position with the rear panel closing a second portion of the opening of the rear storage area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area. In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12. Therefore, the decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space 11.

The Examiner has cited Peters et al., Girl '401, Powel '405, Webber, and Temp to show the arrangement of load floors sliding on rails disposed upon sides of rear storage areas. However, these patents do not disclose a load floor including a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a horizontal open position with the rear panel closing a

second portion of the opening of the rear storage area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area.

Klar '792 merely discloses an expandable storage system for a vehicle having a rear storage compartment in which access is gained via a rear opening across which is mounted a tailgate for selectable closing and opening thereof and an expandable storage system including an extendible storage member mounted within the storage compartment such that its side walls are generally parallel to the storage compartment side walls, and so as to be selectively movable relative to the storage compartment along an axis, between retracted and extended positions. Klar '792 lacks at least one rail disposed upon each of the sides of the rear storage area and a load floor cooperating with the at least one rail. In Klar '792, the first track members 58 are attached to the vehicle storage compartment floor 16. Klar '792 also lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to the body of the vehicle to latch the load floor in a closed position. In Klar '792, an apparatus 70 includes a spring-biased catch member which is affixed to the interior surface of the rear wall of the storage member 24 and a tongue element of the catch member 70 extends through an opening 74 formed in the floor portion 26 of the storage member 24, so as to be engageable with an annular recess 76 formed in the floor portion 16 of the vehicle storage compartment. There is no suggestion or motivation in the art to combine Mayer '790, Greig '419, allegedly well known prior art, and Klar '792 together.

There is absolutely no teaching of a level of skill in the vehicle art to include a decklid for pivotal longitudinal movement and an integrated extendable load floor assembly

including a load floor cooperating with at least one rail for selective sliding movement in and out of a rear storage area of the vehicle and including a rear panel attached to a bottom of the load floor allowing selective positioning of the rear panel, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area, and a load floor latching mechanism comprising a striker and a latch to latch a load floor in a closed position. The Examiner may not, because she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (CCPA 1967). The Examiner has adduced no factual basis to support her position that it would have been desirable to combine Mayer '790 and Greig '419 to better secure the load floor to the vehicle or to combine Mayer '790 and Klar '792 in order to quickly and more easily open and close one single decklid.

The references, if combinable, fail to teach or suggest the combination of a vehicle having a decklid pivotally secured to a rear end for pivotal longitudinal movement rearward to close a first portion of the opening of a rear storage area in a closed position and for pivotal longitudinal movement forward to allow access to the rear storage area in an open position, and an integrated extendable load floor assembly including a load floor cooperating with at least one rail for selective sliding movement in and out of a rear storage area of the vehicle and including a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a horizontal open position with the rear panel closing a second portion of the opening of the rear storage area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area, and a load floor latching

mechanism comprising a striker and a latch to latch a load floor in a closed position as claimed by Applicants. Thus, the Examiner has failed to establish a case of prima facie obviousness.

The present invention sets forth a unique and non-obvious combination of a vehicle having an integrated extendable load floor assembly including a load floor cooperating with at least one rail for selective sliding movement in and out of a rear storage area of the vehicle and including a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a horizontal open position with the rear panel closing a second portion of the opening of the rear storage area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area, and a load floor latching mechanism comprising a striker and a latch to latch a load floor in a closed position. Advantageously, the integrated extendable load floor assembly provides expanded carrying capability of the cargo area in a conventional sedan type automotive vehicle without compromising the exterior appearance of the vehicle and integrated with the rear end of the vehicle.

Against this background, it is submitted that the present invention of claim 14 is not obvious in view of Mayer '790, Greig '419, allegedly well known prior art, and Klar '792. The references fail to teach or suggest the combination of a vehicle of claim 14. Therefore, it is respectfully submitted that claim 14 is not obvious and is allowable over the rejection under 35 U.S.C. § 103.

Dependent claims 16 and 18 perfect and further limit independent claim 14. Claim 16 defines that the load floor comprises a bottom and sides extending generally perpendicular to the bottom to form a compartment for holding objects. Claim 18 defines that

the vehicle includes a rear panel latching mechanism that latches the rear panel in the upright closed position. Based on the above, it is respectfully submitted that claims 16 and 18 are not obvious and are allowable over the rejection under 35 U.S.C. § 103.

Claim 7

The law is clear that a claim in dependent form shall be construed to incorporate by reference all of the limitations of the claim to which it refers. 35 U.S.C. § 112, ¶ 4. Dependent claim 7 perfects and further limits independent claim 1. As to claim 7, claim 7 claims the invention of an integrated extendable load floor assembly (10) having a load floor (34) including an inner panel (41) pivotally attached thereto to pivot between a closed position and an open position relative to a bottom thereof.

None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claim 7. Specifically, Mayer '790 lacks a load floor including an inner panel pivotally attached thereto to pivot between a closed position and an open position relative to a bottom thereof.

The Examiner has cited Riley and Spykerman et al. to show the arrangement of the inner panel. However, these patents do not teach or suggest the combination of an integrated extendable load floor assembly having a load floor including an inner panel pivotally attached thereto to pivot between a closed position and an open position relative to a bottom thereof. There is absolutely no teaching of a level of skill in the vehicle art to have an extendable load floor assembly with a load floor including an inner panel pivotally attached thereto to pivot between a closed position and an open position relative to a bottom thereof. The Examiner may not, because she doubts that the invention is patentable, resort to speculation, unfounded

assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (CCPA 1967).

The references, if combinable, fail to teach or suggest the combination of an integrated extendable load floor assembly having a load floor including an inner panel pivotally attached thereto to pivot between a closed position and an open position relative to a bottom thereof as claimed by Applicants. The Examiner has failed to show how the prior art suggested the desirability of modification to achieve Applicants' invention. Thus, the Examiner has failed to establish a case of prima facie obviousness.

Against this background, it is submitted that the present invention of claim 7 is not obvious in view of Mayer '790 and further in view of allegedly well known prior art. The references fail to teach or suggest the combination of an integrated extendable load floor assembly of claim 7. Therefore, it is respectfully submitted that claim 7 is not obvious and is allowable over the rejection under 35 U.S.C. § 103.

In conclusion, it is respectfully submitted that the rejections of claims 1 through 3, 5, 7, 14, 16, 18, and 20 are improper and should be reversed.

Respectfully submitted,

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**APPENDIX**

The claims on appeal are as follows:

1. An integrated extendable load floor assembly for a vehicle having a rear end with a floor and sides extending upwardly and along the floor to form a cargo area with an opening, said integrated extendable load floor assembly comprising:

a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position;

a plurality of rails adapted to be disposed upon the sides above the floor of the rear end;

a load floor operatively cooperating with said rails for sliding movement therealong and including an endgate pivotally attached to a rear longitudinal end thereof having an upright closed position and a horizontal open position, said endgate closing a lower portion of the opening of the cargo area when in said upright closed position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area; and

a load floor latching mechanism comprising a striker and a latch, one of said striker and said latch being connected to a rearward longitudinal end of said load floor and the other one of said striker and said latch being connected to the rear end of the vehicle to latch said load floor in a closed position.

2. An integrated extendable load floor assembly as set forth in claim 1 including a pair of slides disposed on opposed sides of said load floor and cooperating with said rails.

3. An integrated extendable load floor assembly as set forth in claim 1 wherein said load floor comprises a bottom and sides extending generally perpendicular to said bottom to form a compartment for holding objects.

5. An integrated extendable load floor assembly as set forth in claim 1 including a latching mechanism to latch said endgate to said load floor in said upright closed position.

7. An integrated extendable load floor assembly as set forth in claim 1 wherein said load floor includes an inner panel pivotally attached thereto to pivot between a closed position and an open position relative to a bottom thereof.

8. An integrated extendable load floor assembly for a vehicle having a rear storage area with an open end comprising:

a decklid adapted to be pivotally secured to the vehicle for pivotal longitudinal movement rearward to close an upper portion of the open end of the rear storage area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the open end of the rear storage area in an open position;

at least one rail adapted to be disposed upon a side of the rear storage area;

a load floor cooperating with said at least one rail allowing for a selective sliding movement in and out of the rear storage area of the vehicle and including a rear panel that is cooperatively attached to a bottom of a rear edge of said load floor allowing selective positioning of the said rear panel in an upright closed position and a lower horizontal open position, said rear panel closing a lower portion of the open end of the rear storage area when in said upright closed position adjacent a rear of the vehicle, wherein said decklid and said rear panel cooperate together to close the open end of the rear storage area; and

a load floor latching mechanism comprising a striker and a latch, one of said striker and said latch being connected to a rearward longitudinal end of said load floor and the other one of said striker and said latch being connected to the rear storage area of the vehicle to latch said load floor in a closed position, said load floor latching mechanism including a movable handle disposed on said load floor.

9. An integrated extendable load floor assembly as set forth in claim 8 including at least one slide disposed on sides of said load floor and cooperating with a portion of said at least one rail.

10. An integrated extendable load floor assembly as set forth in claim 8 wherein said load floor comprises a bottom and sides extending generally perpendicular to said bottom to form a compartment for holding objects.

12. An integrated extendable load floor assembly as set forth in claim 8 including a rear panel latching mechanism that latches said rear panel in said upright closed position.

14. A vehicle comprising:

a body including a rear end having a floor and sides extending upwardly and along said floor to form a rear storage area having an opening;

a decklid pivotally secured to said rear end for pivotal longitudinal movement rearward to close a first portion of said opening of said rear storage area in a closed position and for pivotal longitudinal movement forward to allow access to said rear storage area in an open position; and

an integrated extendable load floor assembly cooperating with said rear storage area, said integrated extendable load floor assembly including at least one rail disposed upon each of said sides of said rear storage area and a load floor cooperating with said at least one rail, said load floor having selective sliding movement in and out of said rear storage area of the vehicle and including a rear panel that is cooperatively attached to a bottom of a rear edge of said load floor allowing selective positioning of the said rear panel in an upright closed position and a horizontal open position, said rear panel closing a second portion of said opening of said rear storage area when in said upright closed position adjacent a rear of the vehicle, whereby said decklid and said rear panel cooperate together to close said opening of said rear storage area, and a load floor latching mechanism comprising a striker and a latch, one of said striker and said latch being connected to a rearward longitudinal end of said load floor and the other one of said striker

and said latch being connected to the body of the vehicle to latch said load floor in a closed position.

16. A vehicle as set forth in claim 14 wherein said load floor comprises a bottom and sides extending generally perpendicular to said bottom to form a compartment for holding objects.

18. A vehicle as set forth in claim 14 including a rear panel latching mechanism that latches said rear panel in said upright closed position.

20. An automotive vehicle comprising:

 a body including a rear end having a floor and sides extending upwardly and along said floor to form a cargo area with an opening;

 a plurality of rails spaced laterally and extending longitudinally between said sides above said floor;

 a load floor operatively cooperating with said rails for sliding movement therealong;

 a decklid pivotally secured to said sides for pivotal longitudinal movement rearward to close a first portion of said opening of said cargo area in a closed position and for pivotal longitudinal movement forward to allow access to said cargo area in an open position and to allow said load floor to be extended when said decklid is in said open position;

 an endgate pivotally connected to said load floor and having a closed upright position and an open horizontal position, said endgate closing a second portion of said opening of

said cargo area when in said closed upright position adjacent a rear of the vehicle, whereby said decklid and said endgate cooperate together to close said opening of said cargo area;

an endgate latching mechanism that latches said endgate in said upright closed position; and

a load floor latching mechanism comprising a striker and a latch, one of said striker and said latch being connected to a rearward longitudinal end of said load floor and the other one of said striker and said latch being connected to the body of the vehicle to latch said load floor in a closed position.

21. A sedan type automotive vehicle comprising:

a body including a rear end having a floor and sides extending upwardly and along said floor to form a cargo area with an opening;

a load floor for sliding movement in and out of said cargo area;

an endgate pivotally connected to said load floor and having a closed upright position and an open horizontal position, said endgate closing a lower portion of said opening of said cargo area when in said closed upright position adjacent a rear of the vehicle;

a decklid pivotally secured to said sides and cooperating with said endgate for pivotal longitudinal movement rearward to close an upper portion of said opening of said cargo area in a closed position and for pivotal longitudinal movement forward to allow access to said cargo area in an open position and to allow objects to be removed from said cargo area when said decklid is in said open position, wherein said decklid and said endgate cooperate together to close said opening of said cargo area; and

a load floor latching mechanism comprising a striker and a latch, one of said striker and said latch being connected to a rearward longitudinal end of said load floor and the other one of said striker and said latch being connected to the body of the vehicle to latch said load floor in a closed position.